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C O N F I D E N T I A L SECTION 01 OF 02 ABUJA 001275

SIPDIS

DEPARTMENT PASS TO USTR (LAGAMA)  
DOC FOR 3317/ITA/OA/KBURRESS AND 3130/USFC/OIO/ANESA/DHARRIS  
TREASURY FOR DPETERS AND RHALL  
DOE FOR GPERSON AND CHAYLOCK

E.O. 12958: DECL: 07/02/2018

TAGS: ECON ENRG EPET PREL EAID ETRD NI

SUBJECT: NIGERIA: IMPASSE ON TEMPORARY IMPORT LICENSES  
SOLVED

REF: A. 07 ABUJA 2435  
1B. 07 ABUJA 1973

Classified By: Economic Counselor Robert Tansey for reasons 1.4. (b & d ).

11. (C) Summary: Following the removal of the previous Comptroller General of the Nigerian Customs Service (NCS) and sustained advocacy with NCS by the Mission, it appears that U.S. companies operating in Nigeria providing oil services to the major oil production companies have received approvals for the operation of rigs, service boats and other equipment under an improved temporary import license (TIs) scheme. Over the past 12 months U.S companies had expressed concern that NCS's capricious practices for TIs were damaging oil production in Nigeria. The successful conclusion of this dispute with adoption by the NCS of USG supported procedures has removed a major barrier to U.S. oil services companies doing business in Nigeria. End Summary.

12. (C) On June 24 EconOff met with Grace Adeyemo (protect), Deputy Controller of the Nigerian Customs Service (NCS). She described the current state of play on the approval of temporary import licenses. EconOff worked closely with Adeyemo on this issue since the December 2007 Trade and Investment Framework Agreement (TIFA) Council meeting in Abuja. Adeyemo contended that the problem stems from the fact that the former Comptroller General (CG) Jacob Gyang Buba and other NCS officers were involved in corrupt practices with customs brokers. (Note: Buba was forcibly retired on June 11, 2008. End Note.)

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U.S. Companies Come Under Scrutiny

13. (C) At one time, U.S. companies may have supplied funds to the brokers to pay the &extra8 fees associated with TIs. As a result of U.S. Department of Justice investigations of several U.S. oil services companies under the Foreign Corrupt Practices Act (FCPA), in the summer of 2007, U.S. oil services companies stopped paying custom brokers to acquire TIs from the NCS. Following the end of this practice, NCS started denying applications and failed to act on several in a reasonable time period, reportedly at the direction of Buba in retribution. The U.S. companies contacted the Department of State, United States Trade Representatives Office and the Department of Commerce regarding the denials and delays. The

U.S. law firm Steptoe and Johnson has represented U.S. companies in the services industry such as Tidewater, Nobel Drilling, Global Industries, and TransOcean and has repeatedly contacted the Embassy regarding problems these companies have had in obtaining TIs. The industry reps contended that more than a billion dollars worth of oil services vessels, rigs and related equipment were held hostage by the hold-ups and that failure to grant timely TIs would make it impossible to produce oil in Nigeria at target volumes. The oil services group's clients include Exxon-Mobil and Chevron.

U.S. Companies Seek New Procedures

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¶4. (C) Industry complaints centered on the following: (1) no published regulations for TI requirements; (2) no established time periods for action on applications; (3) those TIs that were granted were shortened to the point where they were no longer consistent with the underlying service contract. Since August 2007, the Mission has engaged in high-level meetings with GON counterparts to resolve this issue. NCS is administered by the Ministry of Finance and EconOffs have met numerous times with Ministry of Finance reps, NCS and the legal firms representing the U.S. companies to support a transparent process, and clear and timely procedures.

¶5. (C) Following December 2007 Trade and Investment Framework Agreement Council meeting (TIFA), EconOff met with Adeyemo and others at NCS to advocate for change. Through this advocacy we won over several NCS officials, who also started

ABUJA 00001275 002 OF 002

to advocate for changes within the NCS. On May 8, 2008 in a private meeting with EconOff, Assistant Comptroller General Kpagih Baritor L. and Assistant Comptroller General Austin Ilo commented that they understood and agreed with the USG and industry position, were against the NCS policy, and had argued with NCS leadership that it was counter-productive but had been rebuffed. They contended that only the removal of CG Buba would change the situation. Ilo provided EconOff with an unpublished copy of the TI application process, which EconOff shared with other U.S. agencies and industry reps.

¶6. (C) On June 11, CG Buba was replaced by CG Hamman Bello Ahmed, and the top-layer of NCS officers were reassigned or retired. Following this, Adeyemo contacted EconOff and reported that CG Hamman was open to a solution. With input from EconOff, Adeyemo wrote a memo and orally briefed the new CG recommending a transparent, timely and simplified process and explained that current procedures were having a negative impact. She also noted the goodwill and robust technical assistance the USG had provided to NCS within the framework of the TIFA as additional support for the NCS to modify its policies. (Note: Adeyemo passed to EconOff the internal memo that she wrote for the Comptroller General. End Note.)

According to Adeyemo, following her briefing with CG Hamman he told responsible offices to approve outstanding TIs for the following U.S. companies - Tidewater, Nobel Drilling, Global Industries, and TransOcean ) and to ensure the length of the TIs corresponds to the length of the services contract. In addition, he ordered that the offices present a plan to him for placing the regulations on the NCS website.

NCS Interested in BIT and Facilitating Trade

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¶7. (C) Adeyemo also shared with EconOff that CG Hamman is eager to collaborate with the USG on increasing bilateral trade and supports the signing of a bilateral investment treaty (BIT). EconOff had provided Adeyemo a copy of a U.S. draft BIT and she said the CG was reviewing it. According to Adeyemo, within Nigerian interagency meetings on the TIFA, she has advocated for the removal of import bans and high tariffs.

**¶8. (C) Comment:** Adeyemo has been a useful and informative contact and her advocacy efforts have paid off in resolving the TI standoff, increased NCS participation in intellectual property enforcement capacity building and with the TIFA. It appears that USG assistance to the NCS has begun to turn that agency into a useful ally within the GON. We expect that these good relations will continue and may provide leverage to help move forward our TIFA agenda. Although NCS is not the lead agency on TIFA and BIT negotiations, it is interested in moving those agendas forward. Adeyemo plans to represent NCS as part of the GON delegation to the July 14-16 African Growth and Opportunity Act Forum in Washington. End Comment.

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